



**House Bill 4841 as enrolled
Public Act 29 of 1998
Second Analysis (3-19-98)**

**Sponsor: Rep. John Gernaat
Senate Committee: Finance
House Committee: Transportation**

THE APPARENT PROBLEM:

At present public schools do not pay motor vehicle fuel taxes, either on gasoline or on diesel fuel, when the fuel they purchase is used to transport students for educational purposes (usually although not exclusively in school buses). Instead, they have a tax exemption. The exemption on gasoline and diesel fuel that is used by public schools is located in section 207.112 of the Motor Fuel Tax Act (MCL 207.101 et al), and in section 207.122 subsection (4) of the Diesel Motor Fuel Tax Act (MCL 207.121 et al). See *BACKGROUND INFORMATION*.

Private schools do not have a fuel tax exemption. Instead, under law they are entitled to a refund of the taxes they pay on motor vehicle fuel. Private schools (including nonprofit private, parochial, or denominational schools, colleges, and universities) have enjoyed a refund on gas taxes since 1968. No tax refund was available for diesel fuel purchases. Then, in 1995, a bill was enacted to establish a refund for diesel fuel that is used by private schools for educational purposes.

Although refunds are available, only nine to ten private schools file for refund of their taxes throughout a given year, according to the Department of Treasury. The refund is available immediately following each purchase, and the total number of eligible filers is unknown.

Some have proposed to eliminate the gas and diesel tax refund process for private and parochial schools, and instead to exempt them from such taxation under law.

THE CONTENT OF THE BILL:

House Bill 4841 would amend two sections of the motor fuel tax act to exempt purchasers of gasoline

and diesel fuel from paying taxes when the fuel they purchase is used in school buses that are owned by or leased and operated by nonprofit private, parochial, or denominational schools (including colleges and universities). Under current law, such schools are allowed a refund for gas and diesel fuel taxes. House Bill 4841 would delete the refund provision in the law for the gas tax, and instead provide a gas tax exemption. Further, House Bill 4841 also would delete the refund provision for diesel taxes, and instead provide a tax exemption.

As under current law, to be eligible for these exemptions the school-owned or leased motor vehicles would have to be used to transport students to and from school, and to and from school functions authorized by the administration of the eligible institutions.

MCL 207.112a and 207.122

BACKGROUND INFORMATION:

In the Motor Fuel Tax Act, the act that regulates gasoline, the exemption language for *public schools* reads: "The state government and the federal government using gasoline in a state or federally owned motor vehicle, and a political subdivision of the state using gasoline in a vehicle owned by or leased and operated by the political subdivision of the state, are exempt from the tax on gasoline levied by this act." The public school tax exemption for diesel fuel is similar although not identical: "A tax is not imposed under this act, nor shall a tax be collected, on diesel motor fuel used in motor vehicles owned by or leased and operated by a political subdivision of this state, or motor vehicles owned and operated by this state or the federal government."

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, House Bill 4841 would have no direct effect on revenue raised by the motor fuel tax, since the revenue affected by the bill is already being refunded under current law. However, the bill would have a small negative impact on overall state revenues due to the loss of interest earnings on the temporary collection of these fuel tax revenues.

Analysis of the impact of the bill on state costs is ongoing pending information from the Department of Treasury. It initially appears, however, that the bill would decrease state costs imposed on the Department of Treasury in terms of administering the refunds under current law. (11-10-97)

According to the Senate Fiscal Agency, this bill will have two slight, though indeterminate, influences on motor fuel tax revenues and interest earnings: First, this bill would result in a small decrease in motor fuel tax revenues collected by the state because not all eligible schools currently file for a refund on tax-exempt motor fuel purchases. Second, this bill would result in a slight decrease in the interest earned on fuel tax revenues collected by the state but later refunded under the provisions of the current act. (2-23-98)

ARGUMENTS:**For:**

If nonprofit private schools are entitled to a refund of their gas and diesel fuel tax, then the state might as well eliminate their payment of the tax all together. House Bill 4841 would do that. The bill eliminates the need for nonprofit private schools to file for reimbursement for the taxes they pay on fuel, the majority of which is used in buses. The bill would extend the tax exemption that public schools now enjoy to nonprofit private and parochial schools. If this bill becomes law, then parochial schools and other nonprofit, private schools (including colleges and universities) will no longer be required to file their fuel purchase invoices with the Department of Treasury in order to get their taxes refunded. For them and for state workers, the bill would eliminate paperwork. What's more, the bill addresses a simple matter of tax fairness: public and private schools' transportation programs should be treated identically.

Against:

In contrast to public school systems and their publicly owned and operated school buses, parochial school systems do pay gasoline and fuel taxes. However, parochial schools may seek reimbursement for the taxes they pay by submitting invoices for the fuel already purchased to the Bureau of Revenue in the Department of Treasury. This distinction between nonprofit public school and nonprofit private school ownership is an important distinction when the private schools also are religious schools. It is a fundamental guarantee of Americans' religious liberty that there be a clear separation between the church and the state, as provided in the First Amendment to the United States Constitution. A blurring of that separation is unwise.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.